

Listening Session: Small, Independent & Locally-Owned Businesses

The Workplace Partnership Group conducted a listening session on Thursday, January 14, 2016, to engage employees and employers within the small, independent, and locally-owned businesses sector. The session was conducted at the Bryant-Lake Bowl, 810 W Lake Street, beginning at 11:41 a.m. A select number of panelists representing both employees and employers were invited to provide their perspectives in response to a pre-arranged set of questions related to policy issues concerned with earned sick time and paid time-off (PTO). The following is a summary of the feedback from those panelists, as well as general commentary from those members of the community in attendance for this listening session.

PANEL FEEDBACK

[The following questions helped to frame the dialogue with panelists.]

Question #1. How broadly or narrowly should the City of Minneapolis consider coverage related to earned sick time and paid time off to effectively address public health and equity concerns?

Panelists stated issues for small, independent, and locally-owned businesses (hereafter referred to as simply small businesses) with respect to a potential city mandate for paid sick time and/or paid time-off were complex, largely due to the unique and variable nature of the industry: other than some very general shared characteristics related mostly to the number of employees, small businesses had little in common with one another and could not be approached as a single type of “industry.” Therefore, any ordinance crafted by the city would need to account for an almost unlimited number of factors that were most likely not as much of a concern when approaching how to regulate employers operating as large corporations. As one example, panelists pointed to the fact that in larger businesses, especially with respect to salaried positions, it was possible for work to wait in an employee was absent due to illness or other causes; however, in a small business environment, absence could mean that the business must close or that major projects or services might be jeopardized, or that a substitute would need to be paid to cover an absent worker’s shift. It was also pointed out that Minneapolis, as a city with a population between 350,000 and 400,000, was part of a larger metropolitan area of approximately 3 million, and workers frequently move back and forth between multiple jurisdictions; thus, policies would need to be able to address the challenges in dealing with employees working in potentially multiple locations, both inside and outside of the city. Thus, a policy would need to consider the difficulties posed by varying geographic locations and limitations and the administrative burden of managing and ensuring compliance, as well as the actual cost burden for businesses.

Panelists stated that small businesses were an asset to Minneapolis and part of the unique fabric of the city that helped to distinguish it from other locales. Additionally, small businesses had distinctive working conditions and a mix of salaried and hourly positions, and these characteristics were attractive to a variety of workers who appreciated the flexibility and the ability to tailor work environments in small businesses to meet the needs of business owners and their employees, particularly in the special, one-off kinds of offerings that small businesses could provide workers that larger corporations could not always provide or match. Some described small businesses as having more of a “family environment,” which was another factor that was appreciated (and desired) by workers. Accordingly, panelists urged consideration of potential exemptions to a uniform policy, and not to take a one-size-fits-all approach that would result in a “cookie-cutter” model that might negatively affect these defining characteristics of small businesses. And, to that point, most agreed that managing a system capable of accommodating the myriad varieties and exceptions matching the diverse range of small businesses with a uniform policy would be almost administratively impossible.

Panelists agreed that all employees deserved to have time off from work if they were sick, or if a dependent family member was sick. All panelists gave examples from their experiences—both as employees and employers—how small businesses attempted to flexibly respond to employee needs in that regard. One panelist contrasted his experience in small business with a prior experience in a large corporate environment where employees had been punished for using sick time, including termination. So the concern about employees being penalized or threatened with job loss was something that needed to be addressed, regardless of other policy elements that might be recommended. All panelists agreed any city policy related to earned sick time would need to recognize and balance the needs of both employers and employees—preventing abuses in both directions. To that end, a needs analysis on actual costs to small businesses under a mandatory sick-leave policy would be helpful, particularly for those businesses currently without such policies or practices, and it should factor the current costs for existing policies and/or current turnover or illness costs. It was suggested that the policy should draw a distinction between a salaried and an hourly worker, and potentially could be applied separately.

The discussion was opened to audience members in attendance, with the following comments being offered in response to this first question/issue:

- “I generally concur with the opinions offered; my primary concern is around affordability. A number of benefits being discussed with this policy seem to me to be aspirational, particularly for new businesses that might just getting started. Profit margins can be extremely tight for small businesses. I’ve reviewed year-end financial statements from many businesses, and most of the time I see year-end profit—what the owner is bringing home—is often \$10,000 to \$20,000 per year, or maybe even nothing, in which case the owner has to reinvest in the business. We need to look at the specific costs of this policy that we’re considering and figure out the actual operational impact on the majority of small businesses. If you’re bringing home \$10,000 in a year and this policy costs \$15,000, then what is the impact to the owner of the business and their ability to stay in business?”
- “I have a serious problem with this issue. I’ve been in business for more than 40 years, and we have policies crafted to fit the needs of our employees. We take care of our employees because if we don’t, we lose them. That’s just basic business. But to expand this policy as a government mandate, that regulation creates a challenge to the way we can manage our businesses and costs that are not affordable, and the pricing to absorb that extra burden then gets passed along to customers. Our employees are not asking for this. There may be some employees that are; but most employees are in jobs managed by business owners that care about their employees. I have a problem with the City getting involved in more labor laws that regulate the business environment. Does the City have to participate, too? Why is there an exception for the City, or for unions? Why is this only affecting independent businesses?”

[NOTE: Staff clarified that no decisions on the full application or coverage of any potential policy had been made, which was the purpose of the listening sessions in terms of gathering feedback from the community, including particular sectors, such as small, independent, and locally-owned businesses. Likewise, no decision about potential exceptions had been made.]

Question #2. How should earned sick time/paid time off be used? What are your experiences in offering or using paid sick time/PTO?

Reflecting the perspective of small business owners, panelists indicated a mix of both full-time and part-time employees were included, and that earned sick time was provided in both instances, although there was a deferred period of up to 1 year before an employee could qualify and take advantage of those benefits. Part-time workers tended to earn sick time in proportion to the number of hours actually worked; full-time employees might vary, depending on the employment policies of the small business. All panelists agreed that each small business had its own personnel policies—which encompassed sick and vacation time accruals, PTO, short and long-term disability, as examples—and these were developed over time to meet the specific

needs of the business. These policies acted as “tools” that were part of the recruitment and retention practices for most small businesses.

A particular aspect of small business employment deserving of attention, according to panelists, was the employment of youth/young workers, often high-school aged workers who worked short hours during the school year, but worked longer/more regular schedules during the summer season. For example, a young (student) worker might only work 8 hours per week while school was in session, but could increase to 40 hours per week in summertime. That represented a significant shift in the workforce, and would be challenging to administer and enforce uniform leave policies with respect to that category of worker.

One panelist noted that, as an employee, the business owner was quite generous primarily because they were actively engaged with the workers and wanted to ensure both a good work-life balance as well as adequate access to sick time so that workers were able to care for themselves and their dependent family members.

One panelist noted that his business did not offer employees paid sick time. Instead, that business paid more than the current market rate for retail and provided year-end bonuses as incentives to workers. The panelist noted that in some years without a profit, the business owners had to reinvest money into the business to avoid closing—and laying off their workers. So, the economic impact needed to be carefully considered, because businesses that cannot afford to implement the requirements might be forced to close, and that could result in increased unemployment within the city, which was certainly an undesirable result of a well-intentioned policy proposal.

Several panelists agreed that if the city were to pursue a uniform proposal, it should be focused on providing a single PTO benefit to employees that could be used at the discretion of the employee, whether for sick, vacation, or other purposes (including care for dependent family members). Most indicated that the idea of a dedicated accrual of “sick time” was outdated and also posed more significant administrative burdens, including paperwork verifying an illness and the ability to return to work, which was mitigated with PTO, which didn’t include those stricter requirements. It was felt that PTO offered both employers and employees the greatest benefit, flexibility, and the least burden to implement, administer, and—from the city government’s perspective—to enforce.

The discussion was opened to audience members in attendance, with the following comments being offered in response to this second question/issue:

- “I choose to put my business in Minneapolis. That was my decision, and I have a commute to get to and from my business. My question is, I own a salon, and I have multiple types of workers there. I have 1.5 employees, but the rest are really independent contractors who are doing business out of my salon. From this policy perspective, what about those independent contractors? Technically, they pay me to be in my salon. Would I be responsible for providing them coverage? I know this issue is the same for some other small business owners. How would this policy address that situation?”
[NOTE: Other speakers noted how this situation might also apply to other types of organizations that function as a kind of small business; for example, in an arts organization where a number of independent contractors might be engaged under the umbrella of the larger organization but not be actual employees in the traditional sense of that definition.]
- “We offer PTO for our hourly workers, both part-time and full-time employees. I’d like to have this Partnership group consider the impact of this policy ... we have temporary and young workers. At what point would this policy apply, when you have a temporary worker who might only be with you for a very short period of time, maybe over summer, like as a student with a summer job, for example. I think a six-month period where coverage would not be required might be a good approach. It shouldn’t be an immediate requirement for employers to offer sick leave benefits to all employees. It should accumulate over time, for at least six months, I think, and then if the employee leaves before that period, they don’t earn it. They don’t get to keep it. I agree, it is important for people to have access to paid time that they

can use for sick time, or for vacation, their personal wellness, or even family needs. All workers need that access, that type of coverage. But I don't agree that it should kick-in right away; it should be earned, and shouldn't be available for the first six months."

Question #3. How should paid sick time/PTO be earned? Should it vary by hours worked, business sector, revenue, number of employees? Should it be capped?

Panelists indicated that typically sick time and/or PTO was earned after a certain amount of time on the job; in one instance, an employee had to work 1,000 hours before qualifying to earn sick time/PTO, but after that point the benefits were available and employees were eligible to accrue and use that time. Some indicated that age of the worker might also be a factor, given prior discussion about youth and seasonal workers, and pointed out that there was even a difference between a 14-year-old worker and an 18-year-old worker, and these distinctions needed to be recognized in any policy proposal. Panelists concurred that the size of a business was another important factor to consider, as well as annual revenues earned by the business. Those criteria might be good factors for allowing for exceptions in multiple categories.

Many pointed to the benefits of an initial "testing period" of employment, where additional benefits (like paid sick time) were not provided. Both a six-month vesting period of 1,000 hours were identified as potential workable targets for this initial period. Panelists also agreed any accrual of hours should be capped, to avoid a situation where an employee was accruing unlimited amounts of sick time (or PTO), which could present a significant business impact when that employee terminated and wanted to cash-out their time. Some suggested the cap should be set at 40 hours. However, panelists also agreed that an employee should never be forced to work while sick. During that initial period—when benefits like paid sick time were not available—all indicated that they would allow the employee to stay home to recover, even if no sick time hours had yet been accrued. This was identified as being part of the unique qualities of a small business where, because of the close association between employer and employee, there were often allowances or one-offs given, especially when it involved the health and well-being of the employee (or their dependent family members).

The discussion was opened to audience members in attendance, with the following comments being offered in response to this third question/issue:

- "In my company, I have 1 full-time employee and several part-timers, plus myself. My comment is that there is a difference between a small business and a "micro" business. I'd say that the commenters have shared my thoughts. In the D.C. example, they capped the total accrual at 24 hours for certain numbers of employees, and I have a situation that's similar, where I get my list of workers to substitute when there's an absence and I need to cover that. If there is a requirement in place that a certain amount of hours must be provided, then I would need to adjust those benefits downward. I don't think it's the City's place to enforce a uniform policy like this when so many factors are involved in the businesses that exist in Minneapolis. If it isn't broke, don't try to fix it. I don't see many demands for this; it just feels like the City is looking for reasons to impose this on us. The intention is good, but misguided."
- "Due to Minnesota Revenue regulations, I had to switch all my contractors to employees; and they literally were working only 1 or 2 hours per week, but the consequences of that change have been fairly significant for my operation. So, I want to make sure that whatever is put in place, as a micro-business with just 7 FTEs, I want an option where this policy could scale for implementation and enforcement. And, like the previous speaker, I think you should distinguish between small and micro businesses. As it is, I'd made the decision when I opened my business to pay my 2 staffers more, even though they only worked a few hours each week, and that was my decision. But now, with the State changes, I have to pay even more to retain them, because of the change in their employment status. And that's probably the cost of doing business, but at the same time I didn't consider that at the time when setting my pay rates, that I'd have to offer PTO. Otherwise, I might have to revise my pay structure in order to cover the added costs for this new policy."

Question #4. What, if any, measures should be considered to ensure workers are not penalized for using paid sick time/PTO? What, if any, measures should be considered to ensure employers are not subject to undue hardship from abuses of such policies?

Panelists agreed this was the crux of the issue for many small businesses; they questioned: Why would the City of Minneapolis want to be involved in the daily operations of the approximately 10,000 to 12,000 businesses located within its borders? How would the City provide uniform enforcement and compliance? How would the City protect employees needing the benefit of paid sick time or PTO? How would the City protect employers from abuse of these benefits? Finally, how would the City recognize and establish positive programs for workers rather than mandating one-size-fits-all regulations? All panelists recognized that safeguards needed to be established to protect employees as well as employers from abuse; from abuses that prevented employees from taking advantage of paid sick time (or PTO), and from abuses of leave policies that might negatively impact business operations. Balancing those interests was the challenge recognized by all participants, whether employees or employers.

One panelist recommended a different approach: rather than focusing on a regulatory measure, which implied penalties for non-compliance, adopt a policy that worked to incentivize business owners to achieve a set of minimum standards that defined a good work environment. Like industry best practices, the City of Minneapolis might be the first in the nation to achieve compliance with policy goals through a more positive approach; unlike other jurisdictions, where the focus has been on regulating businesses, by focusing on incentivizing best practices, not only could compliance be more easily achieved, but it could have the ability to raise the bar across multiple industries and sectors without the need for potential exemptions, provisions, and other exclusions. It was suggested that Minneapolis could model its program on the LEED (Leadership in Energy & Environmental Design) program sponsored by the U.S. Green Building Council, which recognizes best-in-class building strategies and practices based on projects that satisfy certain prerequisites related to sustainable and environmentally-conscious practices to earn points toward certification and industry recognition. It was suggested that developing a comparable certification program—especially if it could be combined with financial rewards—would be more successful at achieving both compliance and movement toward larger policy outcomes related to equity and closing disparity gaps in Minneapolis.

Other panelists concurred with the recommendation to approach a uniform policy as an incentivizing program, agreeing that it would achieve greater acceptance and compliance across multiple industries and sectors. As an added benefit, it could stimulate friendly competition among employers to be certified by the City of Minneapolis as an “employer of choice,” similar to the best-of-class recognition bestowed to businesses that attain the LEED certification. This might set the City of Minneapolis apart as a national leader, and then other jurisdictions where sick leave/PTO policies were already implemented could look to Minneapolis for an even better policy and policy-approach, one focused on reward rather than regulation. As one panelist concluded: “Frankly, it’s in all of our interests to have employees who want to work with and for us, and for us to keep them, especially in this tough economic environment. Instead of penalties, look to rewards and incentives.”

The discussion was opened to audience members in attendance, with the following comments being offered in response to this fourth question/issue:

- “My concern is still the unknown costs related to this policy; I see it as both a cost to my business and an operational impact to the business. The operational impact on small businesses is very difficult. I agree with many of the comments here today. We don’t have a bank of employees who can just fill-in as a standby employee when we have absences because employees are claiming sick time. It can’t just be a matter of saying ‘Well, that’s just the cost of doing business in Minneapolis.’ I mean, I hope that’s not what we’re saying. Our customers have choices through the metro area, and if we raise prices then the

people who are most impacted will be the same ones who are least able to afford it. So, I just want to voice my caution on the whole thing.”

- “This would be a cost for us. We don’t have the option of just raising prices to pass those additional costs along. We don’t want to affect our relationships with our customers. I want to urge the City to really consider that and take into consideration how unique small businesses are. Don’t rush this. It really feels like we’re rushing to this.”
- “I’d just echo that – that it seems like we’re rushing this, and the deadline to propose something to the City Council. These listening sessions have different focuses, and many businesses and employees can’t have their voices heard. There needs to be more time; the Partnership needs to engage more people in this, not less. I’d like to encourage the City and the Partnership Group to continue engaging and to solicit more voices and more perspectives in this proposal. If the City is serious about this and for Minneapolis to be a leader in this issue across the nation, more than just a month-and-a-half is probably needed, in my opinion.”

GENERAL COMMUNITY FEEDBACK

The following is a summary of general commentary from the public in attendance at the listening session.

- “As we’ve seen here today, there are many businesses in Minneapolis that provide great benefits and treat their employees right, and that’s great. But, it’s not universal. We need to figure out a policy that doesn’t negatively impact those businesses that are good employers, but we do want something that’s going to help workers, too. And the good news is that similar policies have already been done in other jurisdictions; so, this isn’t something Minneapolis is doing alone, and we can benchmark against those communities. Right now, there are 21 other cities that have sick-leave policies on the books, and four states. And so we don’t have to draft the language to react to, because it’s already been done. Those cities can serve as a model for what we can do here in Minneapolis. The Main Street Alliance is making a similar proposal, it’s slightly different from what the City is considering. We also want a policy that will advance our equity goals and secure public health benefits for all employees. So, we recognize that there may be some additional time and effort required, but we appreciate that so many of our employers are doing good for their employees and commend those who are helping by leading by example.
- “I think something that might work, and that’s the idea we heard today: incentivize action rather than penalize through regulations. I strongly urge the panel to develop guidelines and ways to incentivize businesses to reach those standards rather than penalize them for not doing it.”
- “I have similar policies implemented in my small business. We can’t compete on price alone; it’s about relationships. I value my customers and my employees. My employees are like family to me. Sometimes you have to do what’s right for them and by them. I live in north Minneapolis where a neighbor up the street works 20 hours per week at her job, but she doesn’t accrue sick time. If the 1,000 hour guideline that was mentioned was in place, she could never qualify for sick time. That’s not a realistic goal, not given the limited amount of hours she works—it would take too long. And what would she do in the meantime? San Francisco had the 80 hours in a year eligibility criteria, and I think that makes more sense from the worker perspective. But, I will cover my costs and build my business on relationships to make those transactions happen.”
- “It’s important to remember that there is a difference in the accrual rates between 30 and 40 hours. And we should think about that. At 30 hours, you’d get like 8 sick days per year. Over about 35 years, that’s pretty generous. At 40 hours accrual, you’d get a full week of sick time. So it does add up, and that can make a big difference. People who have that consistent need for being absent are really subject to a more intense review. One hour for every 30 hours worked compared to 40 hours has a substantial difference in leave accruals. For those cities where this policy is already in place, was there any thought given to moving this to a statewide level? I always hear it’s not fair for Minneapolis to do this alone, that it would create unfair burdens for businesses in Minneapolis. So, what’s the appetite to address this issue on a statewide level? Why throw all this effort at a municipality when it might be more sensible to approach it as a state policy.”

- “I agree we should make this incentive-based and focus on the relationship. The new culture of getting something for nothing doesn’t work. The idea that we provide just sick leave is erroneous; we need ‘personal leave’ that’s used for employees to cover their own needs. We need employees to be responsible for their actions and then, at year-end, we can use it as a bonus to further incentivize good work behaviors. It’s earned, and it’s worked out between the employer and the employee. Where it used to be that students or part-time workers, and folks looking to supplement their income, for many folks today part-time work is their main source of income. Too many can’t make ends meet today. And they need protected time to care for themselves. This needs to address the working relationship between employer and employee, and I think the incentivizing approach is best. You can’t cookie-cut this policy, and one policy will never fit all businesses and all sectors. Incentivizing the policy is a win-win approach.”
- “I’ve heard lots of talk about business and operational impact—and the potential impact this policy might have. But, as a small business owner, locally-owned, I want to say that we need to encourage people to shop local. This kind of mandate, where we (small businesses) have to compete with larger businesses, that can result in locally-owned, small, and independent businesses being forced to close. It’s the incremental impacts. We have health insurance, vacation, sick time, disability, and other benefits that we provide to our employees. I like to make those decisions myself, about our business, depending on what we can afford. And if having these regulations was forced upon us, it could make operating a small business impossible. We have to think about what other benefits might need to be cut, or what other changes can be made so we can afford this new policy. The City should encourage people to shop local, that’s very important; that’d make a big difference for us small business owners.”